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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.351 OF 2007

Shri Alok Kumar Manoranjan Ghosh ... Petitioner

Vs.

The State of Maharashtra & Anr. ... Respondents

Mr. Shirish Gupte with Ms. Sharmila Kaushik i/b Mr. M.K. Kacharekar for the petitioner.

Mr. A.S. Pai, A.P.P. for the State.

Mr. Prakash Naik for respondent 2.

CORAM : SMT. RANJANA DESAI & ANOOP V. MOHTA, JJ.

DATED : 13TH MARCH, 2007.

P.C.:-

1. This writ petition arises out of the proceedings in C.R. No.270 of 2006 registered at the Mira Road Police Station under sections 354 and 452 of the Indian Penal Code (for short, “the IPC”) against the petitioner. According to the petitioner, he is working as an Assistant Manager in New India Assurance Company Limited at Durgapur.

2. In the year 2003, the petitioner's daughter got married with one Devanshu Raj Roy @ Raj Rinku Shubhanshit, residing at Mira Road, Dist. Thane. It is the case of the petitioner that in the year 2006, the petitioner's daughter was thrown out of the matrimonial house by her husband and in-laws. The daughter of the petitioner was ill-treated by her in-laws. Due to the

alleged harassment caused by the husband and in-laws, the daughter of the petitioner lodged a complaint before the learned Additional Chief Metropolitan Magistrate, Durgapur. Pursuant to that complaint, the police had arrested her husband and in-laws on the allegation of having committed offences under sections 498-A, 406, 420 read with section 34 of the IPC.

3. It is the case of the petitioner that because of this, respondent 2 has been put up by the in-laws of the petitioner's daughter to involve him in a false complaint alleging offences under section 376 read with section 511 of the IPC. Respondent 2, who is the maid-servant of the petitioner's daughter's in-laws lodged a complaint with the Mira Road Police Station, alleging that on 30/4/2006 in the afternoon, the petitioner came to her residence. He tried to molest but she was successful in throwing him out. It is stated in the complaint that the petitioner again came on the same day at 10.00 p.m.; rang the bell and, when respondent 2 opened the door, he came inside the house and molested her. According to respondent 2, he was drunk and attempted/tried to have sexual intercourse with her. According to respondent 2, she went to lodge a complaint at the Mira Road Police Station. However, the police did not register her complaint and, therefore, she filed a private complaint in the Court of the Judicial Magistrate, First Class, Thane. By this petition, this complaint is sought to be quashed.

4. We have heard Mr. Gupte, the learned senior counsel appearing for the petitioner. Mr. Gupte submitted that the petitioner is being falsely involved by

the in-laws of his daughter being enraged by the fact that a complaint is lodged by the petitioner's daughter against them alleging offences under sections 498-A, 406 and 420 read with section 34 of the IPC. Mr. Gupte drew our attention to a certificate issued by the New India Assurance Company with whom the petitioner is supposed to be working. He submitted that this certificate indicates that on the relevant day, the petitioner was at Durgapur. He submitted that the story narrated by the complainant in the complaint is inherently improbable. It is contradictory and, hence, the complaint is liable to be quashed. We are unable to agree with Mr. Gupte. We have gone through the complaint. It is not possible for us to say that the complaint prima facie does not make out any offence at all. Whether the petitioner was at Durgapur at the relevant time or not is only for the trial court to decide. This is not a complaint which could be quashed. It is also pertinent to note that before the Calcutta High Court, the petitioner had contended that he would surrender to the police. On that basis, he had obtained interim protection. Instead of surrendering to the police, the petitioner has approached this court for quashing the complaint. In our opinion, the petition cannot be entertained by this court. The petition is rejected. At this stage, the learned counsel for the petitioner seeks time to surrender. That request is rejected.

[SMT. RANJANA DESAI, J.]

[ANOOP V. MOHTA, J.]